

REMARKS/ARGUMENTS

In the Office Action mailed September 24, 2008, claims 1-19 were rejected. In response, Applicants hereby request reconsideration of the application in view of the amendments and the below-provided remarks. No claims are added. Claims 4 and 14 are canceled.

For reference, claims 1-3, 5-13, and 15-19 are amended. In particular, all of the claims are amended to clarify the language of the claims. Also, claims 1, 11, and 18 are amended to improve the formatting of the claims. Also, claims 1-17 and 19 are amended to provide proper punctuation. Additionally, claims 1 and 11 are amended to recite limitations related to the limitations previously recited in claims 4 and 14, respectively. Consequently, claims 4 and 14 are canceled. These amendments are supported by the original language of the claims.

Claim Rejections under 35 U.S.C. 101 and 112

Claim 11 was rejected under 35 U.S.C. 101 and 112. However, Applicants submit that claim 11 is amended to set forth operations of the claimed method. Accordingly, Applicants respectfully request that these rejections be withdrawn.

Claim Rejections under 35 U.S.C. 102 and 103

Claims 1-7 and 10-17 were rejected under 35 U.S.C. 102(b) as being anticipated by Roz (U.S. Pat. No. 6,462,647, hereinafter Roz). Additionally, claims 8 and 18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Roz in view of Yewen (U.S. Pat. Pub. No. 2004/0201539, hereinafter Yewen). Additionally, claims 9 and 19 were rejected under 35 U.S.C. 103(a) as being unpatentable over Roz. However, Applicants respectfully submit that these claims are patentable over Roz and Yewen for the reasons provided below.

Independent Claim 1

Claim 1 recites “an external energy source information identification stage to identify second energy source information which comprises at least one parameter of at

least one energy source serving to supply a circuit of the second communication partner appliance with electrical energy” (emphasis added).

In contrast, Roz does not disclose receiving or identifying at least one parameter of an energy source of a second communication partner appliance. Although the Office Action states, in the rejections of claims 4 and 14, that Roz purportedly discloses the indicated limitation, Applicants respectfully traverse this assertion.

Roz is generally directed to active transponders that are able to be switched into passive transponders. Roz, col. 1, lines 3-5. While Roz specifically addresses many aspects of charging a battery in the transponder when the battery falls below a minimum threshold voltage V_{min} , this aspect of the device of Roz is essentially unrelated to the claims of the present application. Additionally, Roz also describes operating the transponder through connections to either 1) an accumulator (i.e., a battery) in an active mode, or 2) storage means (i.e., a capacitor) in a passive mode (the storage means also charges the accumulator). Roz, col. 8, lines 1-16. The transponder operates in the passive mode when the voltage V_1 from the accumulator falls below the minimum threshold voltage V_{min} . Roz, Fig. 8; col. 8, lines 49-62. Ultimately, the operation of the transponder in either the active mode or the passive mode depends entirely on the accumulator voltage V_1 and the storage means voltage V_2 .

Since the storage means voltage is affected by the presence of a radio frequency signal from another device (e.g., a base station), the Office Action attempts to construe the transponder of Roz as operating in the active or passive modes dependent on energy source information from a second communication partner appliance. However, this generalization fails to acknowledge that the operation of the transponder does not depend on at least one parameter of the energy source of a second communication partner appliance. In other words, even if the transponder operation in Roz indirectly depends on the presence of a radio frequency signal from another device, Roz nevertheless does not describe sending, receiving, or identifying any type of energy source parameter from the other device to the transponder.

Thus, the energy source information relied on in Roz is merely the presence of the actual radio frequency signal, regardless of what information or parameters the radio frequency signal might carry. Moreover, Roz does not describe the radio frequency

signal as carrying any type of information about an energy source parameter from another device to the transponder. Thus, Roz merely describes using the presence of the radio frequency signal, but does not describe using any content, or parameters, conveyed by the radio frequency signal. Therefore, Roz does not describe second energy source information which includes at least one parameter of at least one energy source serving to supply a circuit of a second communication partner, as recited in the claim.

For the reasons presented above, Roz does not disclose all of the limitations of the claim because Roz does not disclose identifying second energy source information which includes at least one parameter of at least one energy source serving to supply a circuit of a second communication partner, as recited in the claim. Accordingly, Applicants respectfully assert claim 1 is patentable over Roz because Roz does not disclose all of the limitations of the claim.

Independent Claim 11

Applicants respectfully assert independent claim 11 is patentable over Roz at least for similar reasons to those stated above in regard to the rejection of independent claim 1. In particular, claim 11 recites “receiving second energy source information which comprises at least one parameter of at least one energy source serving to supply a second communication partner appliance with electrical energy” (emphasis added).

Here, although the language of claim 11 differs from the language of claim 1, and the scope of claim 11 should be interpreted independently of claim 1, Applicants respectfully assert that the remarks provided above in regard to the rejection of claim 1 also apply to the rejection of claim 11. Accordingly, Applicants respectfully assert claim 11 is patentable over Roz because Roz does not disclose receiving second energy source information which includes at least one parameter of at least one energy source serving to supply a second communication partner appliance, as recited in the claim.

Dependent Claims

Claims 2, 3, 5-10, 12, 13, and 15-19 depend from and incorporate all of the limitations of the corresponding independent claims 1 and 11. Applicants respectfully assert claims 2, 3, 5-10, 12, 13, and 15-19 are allowable based on allowable base claims.

Additionally, each of claims 2, 3, 5-10, 12, 13, and 15-19 may be allowable for further reasons, as described below.

In regard to the rejections of claims 9 and 19, Applicants respectfully submit the rejections of claims 9 and 19 are improper because the Office Action does not establish *prima facie* obviousness. In order to establish a *prima facie* rejection of a claim under 35 U.S.C. 103, the Office Action must present a clear articulation of the reason why the claimed invention would have been obvious. MPEP 2142 (citing *KSR International Co. v. Teleflex Inc.*, 550 U.S. __ (2007)). The analysis must be made explicit. *Id.*

Additionally, rejections based on obviousness cannot be sustained by mere conclusory statements; instead there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *Id.* Here, the Office Action fails to explain why the limitations of claims 9 and 19 would have been obvious.

Although the Office Action asserts a conclusion that the limitations of claims 9 and 19 would have been obvious, the Office Action does not even attempt to address all of the specific language of the claim. In particular, the Office Action does not address how or why it might have been obvious to facilitate termination and subsequent restart of a communication protocol, as recited in the claim. Although the Office Action concludes that the circuit of Roz would use the same passive send mode with the same previously used response communication when a second communication partner appliance sends another interrogation signal, this conclusion does not address termination and subsequent restart of a communication protocol. In other words, the conclusion does not provide an explanation or any reasoning in support of the assertion of obviousness regarding termination and subsequent restart of a communication protocol. More specifically, the Office Action does not even attempt to explain what teachings of Roz or of the common knowledge might render the indicated limitations obvious to one of skill in the art. Thus, the Office Action asserts mere conclusory statements which are not supported by some articulated reasoning with some rational underpinning. Therefore, the Office Action fails to establish *prima facie* rejections for claims 9 and 19 because the Office Action does not even attempt to explain what evidence or reasoning might render the indicated limitations obvious. Therefore, the rejections of claims 9 and 19 are improper because the Office Action fails to establish a *prima facie* case of obviousness. Accordingly, Applicants

respectfully submit that the rejections of claims 9 and 19 under 35 U.S.C. 103(a) should be withdrawn.

CONCLUSION

Applicants respectfully request reconsideration of the claims in view of the amendments and the remarks made herein. A notice of allowance is earnestly solicited.

Respectfully submitted,

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